

2005 Montana Legislature
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EXHIBIT 1
DATE 1-15-07
HB 20

HOUSE BILL NO. 609
INTRODUCED BY TAYLOR, JACKSON, HEINERT

AN ACT PROVIDING THAT INJUNCTIVE RELIEF IS AVAILABLE FOR A PERSON TRYING TO ENFORCE A WATER RIGHT; PROVIDING THAT A PERSON TRYING TO ENFORCE A WATER RIGHT MUST BE AWARDED REASONABLE COSTS AND ATTORNEY FEES; AMENDING SECTION 85-2-125, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 85-2-125, MCA, is amended to read:

"85-2-125. (Temporary) Recovery of attorney fees by prevailing party. (1) ~~(a)~~ In the Upper Clark Fork River basin, as defined in 85-2-335, the prevailing party in a hearing under 85-2-309 on an application for a permit or change approval may bring an action in district court for costs and attorney fees. The court shall award the prevailing party reasonable costs and attorney fees.

~~(b)(2)~~ (a) If a final decision of the department on an application for a change approval in the Upper Clark Fork River basin is appealed to a district court, the district court shall award the prevailing party reasonable costs and attorney fees.

~~(2)(b)~~ If a final decision of the department on an application for a permit is appealed to district court, the district court shall award the prevailing party reasonable attorney fees.

(3) The party obtaining injunctive relief in an action to enforce a water right must be awarded reasonable costs and attorney fees. For the purposes of this section, "enforce a water right" means an action by a party with a water right to enjoin the use of water by a person that does not have a water right. (Terminates June 30, 2005-sec. 14, Ch. 487, L. 1995.)

85-2-125. (Effective July 1, 2005) Recovery of attorney fees by prevailing party. (1) If a final decision of

the department on an application for a permit is appealed to district court, the district court shall award the prevailing party reasonable costs and attorney fees.

(2) The party obtaining injunctive relief in an action to enforce a water right must be awarded reasonable costs and attorney fees. For the purposes of this section, "enforce a water right" means an action by a party with a water right to enjoin the use of water by a person that does not have a water right."

Section 2. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

Section 3. Effective date. [This act] is effective on passage and approval.

- END -

Latest Version of HB 609 (HB0609.ENR)

Processed for the Web on March 11, 2005 (5:50pm)

New language in a bill appears underlined, deleted material appears stricken.

Sponsor names are handwritten on introduced bills, hence do not appear on the bill until it is reprinted.

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